

# **EXHIBIT F**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**TUFAMERICA, INC.,**  
**Plaintiff**

12cv3529 (AJN)

-against-

MICHAEL DIAMOND, ADAM HOROVITZ and  
ADAM YAUCH, P/K/A BEASTIE BOYS,  
UNIVERSAL MUSIC PUBLISHING, INC.,  
UNIVERSAL MUSIC PUBLISHING GROUP,  
BROOKLYN DUST MUSIC and CAPITAL  
RECORDS, LLC,

## Defendants.

30 Rockefeller Plaza  
New York, New York  
May 6, 2014  
9:42 a.m.

VIDEOTAPE DEPOSITION of WILLIAM A.  
SCOTT, the Witness in above-entitled  
action, held at above time and place,  
taken before Francine Sky, a Certified  
Shorthand Reporter and Notary Public of  
the State of New York, pursuant to the  
Federal Rules of Civil Procedure, and  
stipulations between Counsel.

<p>1</p> <p>2 APPEARANCES:</p> <p>3</p> <p>4 THE LAW OFFICES OF KELLY D. TALCOTT</p> <p>5 Attorneys for Plaintiff</p> <p>6 34 Grove Street</p> <p>7 P.O. Box 43</p> <p>8 Sea Cliff, New York 11579</p> <p>9 BY: KELLY D. TALCOTT, ESQ.</p> <p>10</p> <p>11</p> <p>12</p> <p>13 SHEPPARD MULLIN RICHTER &amp; HAMPTON, LLP</p> <p>14 Attorneys for Defendants</p> <p>15 Michael Diamond, Adam</p> <p>16 Horovitz, Adam Yauch, p/k/a</p> <p>17 Beastie Boys</p> <p>18 30 Rockefeller Plaza</p> <p>19 New York, New York 10112</p> <p>20 BY: THOMAS M. MONAHAN, ESQ.</p> <p>21 -and-</p> <p>22 THEODORE C. MAX, ESQ.</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 2</p> <p>1</p> <p>2 STIPULATIONS</p> <p>3 IT IS HEREBY STIPULATED AND AGREED,</p> <p>4 by and among counsel for the respective</p> <p>5 parties hereto, that the filing,</p> <p>6 sealing and certification of the within</p> <p>7 deposition shall be and the same are</p> <p>8 hereby waived;</p> <p>9 IT IS FURTHER STIPULATED AND AGREED</p> <p>10 that all objections, except as to form</p> <p>11 of the question, shall be reserved to</p> <p>12 the time of the trial;</p> <p>13 IT IS FURTHER STIPULATED AND AGREED</p> <p>14 that the within deposition may be</p> <p>15 signed before any Notary Public with</p> <p>16 the same force and effect as if signed</p> <p>17 and sworn to before the Court.</p> <p>18 * * *</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>1</p> <p>2</p> <p>3 APPEARANCES: (Continued)</p> <p>4</p> <p>5 JENNER &amp; BLOCK, LLP</p> <p>6 Attorneys for Defendants</p> <p>7 UMG PolyGram International</p> <p>8 Publishing, Inc. and Capitol</p> <p>9 Records, LLC</p> <p>10 919 Third Avenue</p> <p>11 New York, New York 10022</p> <p>12 BY: NATHANIEL H. BENFORADO, ESQ.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 Also Present:</p> <p>19</p> <p>20 WAYNE SALINE, Videographer</p> <p>21 Veritext New York</p> <p>22 * * *</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 3</p> <p>1</p> <p>2 Proceedings</p> <p>3 THE VIDEOGRAPHER: We're now 09:43AM</p> <p>4 on the record. Please note that 09:43AM</p> <p>5 the microphones are sensitive and 09:43AM</p> <p>6 may pick up whispering and private 09:43AM</p> <p>7 conversations. Please turn off all 09:43AM</p> <p>8 cell phones or place them away from 09:43AM</p> <p>9 the microphones as they can 09:43AM</p> <p>10 interfere with the deposition 09:43AM</p> <p>11 audio. Recording will continue 09:43AM</p> <p>12 until all parties agree to go off 09:43AM</p> <p>13 the record. 09:43AM</p> <p>14 My name is Wayne Saline 09:43AM</p> <p>15 representing Veritext. The date 09:43AM</p> <p>16 today is May 6, 2014 and the time 09:43AM</p> <p>17 is approximately 9:42. 09:43AM</p> <p>18 This deposition is being held 09:43AM</p> <p>19 at Sheppard Mullin Richter &amp; 09:43AM</p> <p>20 Hampton, located at 30 Rockefeller 09:43AM</p> <p>21 Plaza, New York, New York and is 09:43AM</p> <p>22 being taken by counsel for the 09:43AM</p> <p>23 Defendants. 09:43AM</p> <p>24 The caption of this case is 09:43AM</p> <p>25 TufAmerica, Inc. versus Michael 09:43AM</p> <p>Diamond, et al. This case is filed 09:43AM</p>

2 (Pages 2 - 5)

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<p style="text-align: right;">Page 198</p> <p>1           W. Scott      2   going off the record. The time is 03:50PM      3 3:49.                 03:50PM      4   (Whereupon, a short recess 03:50PM      5 was taken.)           03:54PM      6   THE VIDEOGRAPHER: We're 03:54PM      7 going back on the record. The time 03:55PM      8 is 3:54.               03:55PM      9 EXAMINATION BY                 03:55PM      10 MR. BENFORADO:                03:55PM      11 Q. Good afternoon, Mr. Scott. 03:55PM      12 As I said earlier my name is Mr. 03:55PM      13 Benforado. I represent -- my law firm 03:55PM      14 represents UMG PolyGram and Capitol 03:55PM      15 Records in this action. I just have a 03:55PM      16 few questions. I shouldn't take more 03:55PM      17 than a few minutes.              03:55PM      18       Earlier this morning when you 03:55PM      19 were being questioned by Mr. Monahan 03:55PM      20 you testified that you were aware that 03:55PM      21 the members of Trouble Funk had an 03:55PM      22 agreement with Island; is that correct? 03:55PM      23 A. That's correct.              03:55PM      24 Q. Is it fair to say that your 03:55PM      25 understanding of that agreement is that 03:55PM</p>	<p style="text-align: right;">Page 200</p> <p>1           W. Scott      2 fair to say that in those agreements it 03:57PM      3 references the Trouble Funk members 03:57PM      4 agreement with Island; is that fair? 03:57PM      5       MR. TALCOTT: Objection. 03:57PM      6 A. It references Island.        03:57PM      7 Q. It references Island. And if 03:57PM      8 we want to pull out Tuf 4 and Tuf 5 of 03:57PM      9 the two agreements. On the second 03:57PM      10 page.                         03:57PM      11 A. Yes. It references an 03:57PM      12 agreement with Island.        03:57PM      13 Q. Now you see where it says 03:57PM      14 "Insert name of album" in parenthesis 03:57PM      15 after Island?                 03:57PM      16 A. Yes.                        03:57PM      17 Q. Are you aware of any attempt 03:57PM      18 from TufAmerica to obtain the names of 03:57PM      19 the albums that were released by 03:57PM      20 Island?                        03:58PM      21 A. I don't think I would have 03:58PM      22 been aware in 1999.            03:58PM      23 Q. Did you ever check Schedule A 03:58PM      24 in these agreements, Tuf 4 and Tuf 5, 03:58PM      25 the Administration Agreements, did you 03:58PM</p>
<p style="text-align: right;">Page 199</p> <p>1           W. Scott      2 certain Trouble Funk recordings are 03:56PM      3 owned by Island Records?        03:56PM      4       MR. TALCOTT: Objection. 03:56PM      5 A. I don't really have a very 03:56PM      6 good understanding of that agreement. 03:56PM      7 Q. You testified that you did 03:56PM      8 review an agreement with Island; is 03:56PM      9 that right?                    03:56PM      10 A. I reviewed it, yes.        03:56PM      11 Q. Do you remember who the 03:56PM      12 parties were to that agreement? 03:56PM      13 A. I recall that Trouble Funk, 03:56PM      14 Max Kidd and Island. But I don't know 03:56PM      15 if they were all in one agreement or 03:56PM      16 multiple agreements. Those are rather 03:56PM      17 twisty.                        03:56PM      18 Q. So you don't recall which 03:56PM      19 specific agreement it was you had 03:56PM      20 reviewed?                     03:56PM      21 A. Not exactly, no.            03:56PM      22 Q. And just referencing the 03:56PM      23 Administration Agreements between 03:56PM      24 TufAmerica and the members of Trouble 03:56PM      25 Funk that we reviewed earlier, it's 03:57PM</p>	<p style="text-align: right;">Page 201</p> <p>1           W. Scott      2 ever check Schedule A to see if any of 03:58PM      3 those songs listed were released by 03:58PM      4 Island Records?                03:58PM      5 A. I believe I have.         03:58PM      6 Q. When did you do that?     03:58PM      7 A. In the last two or three 03:58PM      8 weeks.                        03:58PM      9 Q. And was that in connection 03:58PM      10 with this litigation?         03:58PM      11 A. It was.                    03:58PM      12 Q. And what did you -- what did 03:58PM      13 you do?                      03:58PM      14 A. I looked to see if Island had 03:58PM      15 released any of these songs. 03:58PM      16 Q. And what was the outcome of 03:58PM      17 your search?                 03:58PM      18 A. And just to clarify, it was 03:58PM      19 specifically with respect to Say What 03:58PM      20 and Let's Get Small.         03:58PM      21 Q. Fair enough. What was the 03:58PM      22 result of the search for Let's Get 03:59PM      23 Small and Say What?        03:59PM      24 A. I remember seeing that Island 03:59PM      25 had released a live album titled "Say 03:59PM</p>

<p style="text-align: right;">Page 202</p> <p>1 W. Scott      2 What" that did not contain Say What. 03:59PM      3 I also remember seeing -- I 03:59PM      4 think that Island released a version of 03:59PM      5 Let's Get Small. 03:59PM      6 Q. And after you saw that Island 03:59PM      7 had released a version of Let's Get 03:59PM      8 Small, did you do anything after that? 03:59PM      9 MR. TALCOTT: Objection. 04:00PM      10 A. I did. 04:00PM      11 Q. What did you do? 04:00PM      12 A. With respect to the knowledge 04:00PM      13 or -- 04:00PM      14 Q. Well, once you saw that 04:00PM      15 Island had released a version of Let's 04:00PM      16 Get Small, did you perform any 04:00PM      17 follow-up, did you communicate with 04:00PM      18 anyone involved in the litigation? 04:00PM      19 A. I believe I -- I think I 04:00PM      20 communicated with Mr. Talcott. 04:00PM      21 Possibly Mr. Fuchs. I don't remember 04:00PM      22 clearly though. 04:00PM      23 Q. Did you attempt to listen to 04:00PM      24 the version of Let's Get Small, the 04:00PM      25 Island version of Let's Get Small? 04:00PM</p>	<p style="text-align: right;">Page 204</p> <p>1 W. Scott      2 A. Not that I remember. 04:02PM      3 Q. Did anyone ask you to? 04:02PM      4 A. Not that I remember. 04:02PM      5 Q. Are you aware of anyone else 04:02PM      6 at TufAmerica or Tuff City who checked 04:02PM      7 those tracks to see if they had been 04:02PM      8 released by Island? 04:02PM      9 A. This was in 2012? 04:02PM      10 Q. The first one was filed in 04:02PM      11 2012, I believe. 04:02PM      12 A. I don't know that anyone else 04:02PM      13 did. 04:02PM      14 Q. And you also talked about 04:02PM      15 your belief that Jeff Gandel performed 04:03PM      16 due diligence when the agreements were 04:03PM      17 originally signed in 1999; is that 04:03PM      18 right? 04:03PM      19 A. Correct. 04:03PM      20 Q. Do you have any knowledge of 04:03PM      21 whether he checked to see if any of the 04:03PM      22 songs listed in Schedule A were 04:03PM      23 released by Island Records? 04:03PM      24 A. I have no knowledge of that. 04:03PM      25 Q. You also mentioned the track 04:03PM</p>
<p style="text-align: right;">Page 203</p> <p>1 W. Scott      2 A. I did. I did. 04:00PM      3 Q. And were you able to actually 04:00PM      4 listen to it? 04:00PM      5 A. I think I was, yeah. I think 04:01PM      6 I did. 04:01PM      7 Q. How did you obtain the 04:01PM      8 recording? 04:01PM      9 A. I think that Tuff City has a 04:01PM      10 digital copy of the recording. 04:01PM      11 Q. And to be clear you're 04:01PM      12 talking about the Island recording? 04:01PM      13 A. Correct. 04:01PM      14 Q. And you said it's a digital 04:01PM      15 copy? 04:01PM      16 A. Yes. 04:01PM      17 Q. You also testified that you 04:01PM      18 reviewed the complaint before it was 04:01PM      19 filed in this action; is that right? 04:01PM      20 A. Yes. 04:01PM      21 Q. When you reviewed the 04:02PM      22 complaint, did you ever check the 04:02PM      23 tracks at issue in the complaint to see 04:02PM      24 if Island had released any of those 04:02PM      25 tracks? 04:02PM</p>	<p style="text-align: right;">Page 205</p> <p>1 W. Scott      2 Don't Touch That Stereo in connection 04:03PM      3 with a potential infringing use during 04:03PM      4 the Super Bowl; is that right? 04:03PM      5 A. Yes. 04:03PM      6 Q. And before you also testified 04:03PM      7 that TufAmerica has reached out to some 04:03PM      8 of the parties involved in that 04:03PM      9 performance, potential performance of 04:03PM      10 that track. 04:03PM      11 Are you aware of anyone at 04:03PM      12 TufAmerica or Tuff City checking to see 04:03PM      13 if that track had been released by 04:03PM      14 Island? 04:03PM      15 A. I would have done that. 04:03PM      16 Q. Did you do that? 04:03PM      17 A. I think so. 04:04PM      18 Q. What was the result of your 04:04PM      19 checking? 04:04PM      20 A. I can't remember. 04:04PM      21 Q. How would you go about -- if 04:04PM      22 I were to ask you right now whether a 04:04PM      23 certain track was released by Island, 04:04PM      24 how would you perform that analysis? 04:04PM      25 A. I would search the Internet, 04:04PM</p>

<p style="text-align: right;">Page 206</p> <p>1 W. Scott      2 probably discogs.com, that's a database 04:04PM      3 of record releases. If that wasn't 04:04PM      4 complete, which I think it is for this 04:04PM      5 stuff, I would do searches for you know 04:04PM      6 the original albums or the song title 04:04PM      7 to just try to put together as good a 04:04PM      8 picture as possible as to where it was 04:04PM      9 released and what ways. 04:04PM</p> <p>10 Q. Are you aware of anyone other 04:05PM      11 than you who would perform a similar 04:05PM      12 analysis to check if songs were 04:05PM      13 released by Island Records? 04:05PM</p> <p>14 MR. TALCOTT: Objection. 04:05PM      15 A. I guess other people could do 04:05PM      16 that. 04:05PM</p> <p>17 Q. Would it fall under anyone 04:05PM      18 else's job responsibility? 04:05PM      19 A. I would say possibly Mr. 04:05PM      20 Talcott. Possibly -- that would be the 04:05PM      21 only other person. 04:05PM</p> <p>22 Q. And you don't have any 04:05PM      23 specific knowledge of another person 04:05PM      24 who actually did perform searches to 04:05PM      25 see if Island had released any of the 04:06PM</p>	<p style="text-align: right;">Page 208</p> <p>1 W. Scott      2 complaint? 04:07PM      3 MR. TALCOTT: Objection. 04:07PM      4 A. I don't know. Mr. Talcott 04:07PM      5 and myself. 04:07PM</p> <p>6 Q. Would Mr. Fuchs have also 04:07PM      7 been involved in that determination? 04:07PM      8 A. I don't know if he was or 04:08PM      9 not. 04:08PM</p> <p>10 Q. You just don't know one way 04:08PM      11 or the other? 04:08PM      12 A. I don't know about this. 04:08PM      13 Q. Do you have a recollection of 04:08PM      14 when the determination, that 04:08PM      15 determination we just discussed of 04:08PM      16 whether Island had released any of the 04:08PM      17 tracks at issue in the complaint, when 04:08PM      18 was that analysis performed by you 04:08PM      19 and/or Mr. Talcott? 04:08PM</p> <p>20 MR. TALCOTT: Objection. 04:08PM      21 A. I don't know. 04:08PM      22 Q. But it was before filing the 04:08PM      23 complaint? 04:08PM      24 A. I don't recall researching 04:08PM      25 those tracks prior to filing the 04:08PM</p>
<p style="text-align: right;">Page 207</p> <p>1 W. Scott      2 Trouble Funk songs? 04:06PM      3 A. Any of the Trouble Funk 04:06PM      4 songs? 04:06PM</p> <p>5 Q. We can start with Let's Get 04:06PM      6 Small and Say What, are you aware of 04:06PM      7 any specific person who has done a 04:06PM      8 search to see if Island had released 04:06PM      9 those songs, other than yourself? 04:06PM</p> <p>10 A. I believe Mr. Talcott has as 04:06PM      11 well. 04:06PM</p> <p>12 Q. Anyone other than Mr. Talcott 04:06PM      13 and yourself? 04:06PM</p> <p>14 A. Not that I know of. 04:06PM</p> <p>15 Q. With respect to all of the 04:06PM      16 songs in Schedule A, are you aware of 04:06PM      17 anyone other than yourself who has 04:06PM      18 searched to see if those were also 04:06PM      19 released by Island Records? 04:06PM</p> <p>20 A. Other than Mr. Talcott, I'm 04:06PM      21 not aware of anyone. 04:06PM</p> <p>22 Q. Who at TufAmerica was 04:07PM      23 responsible for making a determination 04:07PM      24 as to whether Island had released any 04:07PM      25 of the songs at issue in the amended 04:07PM</p>	<p style="text-align: right;">Page 209</p> <p>1 W. Scott      2 complaint, the amended complaint. I 04:08PM      3 don't know if Mr. Talcott did or not. 04:08PM</p> <p>4 Q. So you're not aware -- you do 04:08PM      5 not recall researching whether Island 04:09PM      6 had released any of the tracks in the 04:09PM      7 amended complaint prior to filing? 04:09PM</p> <p>8 A. I don't recall. 04:09PM</p> <p>9 Q. You don't recall? 04:09PM</p> <p>10 A. Researching it myself. 04:09PM</p> <p>11 Q. Do you recall anyone else 04:09PM      12 doing that research? 04:09PM</p> <p>13 A. I don't recall. 04:09PM</p> <p>14 Q. I believe you testified that 04:09PM      15 you have done that research. When was 04:09PM      16 that research done? Was that done in 04:09PM      17 the last two to three weeks; is that 04:09PM      18 right? 04:09PM</p> <p>19 A. That definitely within the 04:09PM      20 last two to three weeks. Aside from 04:09PM      21 that though I don't -- other than being 04:09PM      22 generally aware that Trouble Funk had 04:09PM      23 released things on Island, I didn't 04:09PM      24 know specifics of what was released. 04:09PM</p> <p>25 Q. So the first time you kind of 04:09PM</p>

